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Paper No. 10

GABRIEL P KATONA, LLP
GOODWIN PROCTER L.L.P.
599 LEXINGTON AVENUE
40TH FLOOR
NEW YORK, NY 10022

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MAR 18 2002

OFFICE OF PETITIONS

DECISION ACCORDING
STATUS UNDER §1.47

In re Application of
Vilmos Keri, Irma Hogye,
Antonia Jekkel, Ilona Bagdi,
Gabor Ambrus, Attila Jakab,
Attila Andor, Lajos Deak,
Istvan Szabo, Janos Balint,
Zsuzsanna Scheidl, Etelka Deli,
Gyula Horvath, Csaba Szabo,
Ildiko Lang, Imre Szekely,
Imre Moravcsik, Vera Kovacs,
Szabolcs Matyas, Zusuzsanna Sztaray
and Laszlo Eszenyi
Application No. 09/578,587
Filed: April 19, 2000
Title: PROCESS FOR THE ISOLATION
AND PURIFICATION OF MEVINOLIN

This is a decision on the "Request for Reconsideration of Petition" under 37 C.F.R. §1.47(a), filed January 2, 2002.

BACKGROUND

The above-identified application was filed on April 19, 2000, as a continuation-in-part of application No. 08/659,961, filed on June 7, 1996 (now abandoned), which was a continuation of application No. 08/269,150, filed on June 30, 1994 (now abandoned). On January 16, 2001, applicants filed the initial petition under §1.47(a)¹, with a declaration executed by inventors Keri, Hogye, Bagdi, Jakab, Deak, Deli, Csaba Szabo, Kovacs, Sztaray, Szekely and Eszenyi on behalf of themselves and on behalf of non-signing inventors Jekkel, Ambrus, Andor, Istvan Szabo, Scheidl, Horvath, Lang, Moravcsik, and Matyas. The declaration was also signed by the legal representative Maria Balint as legal representative for inventor Balint.

However, the petition was dismissed for failure to show that the non-signing inventors by their conduct, or otherwise, refused to join in the application after having been presented with the application papers, and for failure to provide in the petition

¹ A grantable petition under 37 C.F.R. §1.47(a) requires: (1) proof that the non-signing inventors cannot be reached or refuse to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

the last known addresses of the nonsigning inventors. (Decision mailed August 27, 2001). This dismissal set a two-month extendable period for reply.

On instant request for reconsideration, made timely by an accompanying request for a one-month extension, applicants submitted *inter alia* a declaration of patent attorney Zsuzsa Emri, detailing the exact facts relied on to conclude that the nonsigning inventors refuse to sign after having been presented with the application papers. In support thereof, applicants submitted a letter (in Hungarian with verified English translation) signed by inventors Ilkoy, Jekkel, Ambrus, Andor, Scheidl, Horvath, Lang, Moravcsik and Matyas, in which, these inventors state "we do not wish to participate in the USA patent application that you presented and that was filed under No. 09/578,587." As to nonsigning inventor Istvan Szabo, attorney Emri shows refusal by conduct. Attorney Emri declares that the application papers, as well as follow-up letters, were sent to inventor Szabo, and he has not responded. To show receipt, a copy of a signed Hungarian return receipt for one of the follow-up letters was made a part of this declaration. Given this additional showing, it is concluded that applicants have shown that the nonsigning inventors have refused to join in the application within the meaning of §1.47(a).

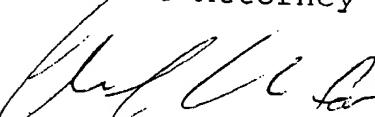
The last known addresses of the nonsigning inventors are understood to be as stated in the declaration.

In view thereof, this application is hereby accorded Rule 1.47(a).

As provided in new Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventors at the addresses given in the declaration. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to the Office of Initial Patent Examination for processing.

Telephone inquiries regarding this decision should be directed to Petitions Attorney Nancy Johnson at (703) 305-0309.


Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy